

1 STEPHEN P. SWINTON (106398).
2 J. CHRISTOPHER JACZKO (149317)
3 COOLEY GODWARD LLP
4 4365 Executive Drive, Suite 1100
5 San Diego, CA 92121-2128
6 Telephone: (858) 550-6000
7 Facsimile: (858) 453-3555

8 DOUGLAS E. OLSON (38649)
9 BROBECK PHLEGER & HARRISON LLP
10 12390 El Camino Real
11 San Diego, CA 92130
12 Telephone: (858) 720-2500
13 Facsimile: (858) 720-2555

14 R. WILLIAM BOWEN, JR. (102178)
15 GEN-PROBE INCORPORATED
16 10210 Genetic Center Drive
17 San Diego, CA 92121-4362
18 Telephone: (858) 410-8918
19 Facsimile: (858) 410-8637

20 Attorneys for Plaintiff
21 Gen-Probe Incorporated

22 UNITED STATES DISTRICT COURT

23 SOUTHERN DISTRICT OF CALIFORNIA

24 GEN-PROBE INCORPORATED,

25 Plaintiff,

26 v.

27 VYSIS, INC.,

28 Defendant.

No. 99cv2668 H (AJB)

PROOF OF SERVICE

PROOF OF SERVICE
(FRCP 5)

I am a citizen of the United States and a resident of the State of California. I am employed in San Diego, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My business address is 4365 Executive Drive, Suite 1100, San Diego, California 92121-2128. On the date set forth below I served the documents described below in the manner described below:

1. NOTICE OF MOTION AND MOTION OF GEN-PROBE INCORPORATED FOR PARTIAL SUMMARY JUDGMENT;
2. MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF GEN-PROBE INCORPORATED'S MOTION FOR PARTIAL SUMMARY JUDGMENT;
3. SEPARATE STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF PLAINTIFF GEN-PROBE INCORPORATED'S MOTION FOR PARTIAL SUMMARY JUDGMENT;
4. DECLARATION OF R. WILLIAM BOWEN IN SUPPORT OF GEN-PROBE'S MOTION FOR PARTIAL SUMMARY JUDGMENT
5. DECLARATION OF DR. JOSEPH D. FALKINHAM IN SUPPORT OF GEN-PROBE'S MOTION FOR PARTIAL SUMMARY JUDGMENT
6. DECLARATION OF DR. MATTHEW LONGIARU IN SUPPORT OF GEN-PROBE'S MOTION FOR PARTIAL SUMMARY JUDGMENT
7. STIPULATION AND [PROPOSED] ORDER ALLOWING GEN-PROBE INCORPORATED TO FILE UNDER SEAL CERTAIN DOCUMENTS UPON WHICH IT RELIES TO SUPPORT ITS MOTION FOR PARTIAL SUMMARY JUDGMENT
8. NOTICE OF LODGMENT IN SUPPORT OF PLAINTIFF GEN-PROBE INCORPORATED'S MOTION FOR PARTIAL SUMMARY JUDGMENT

☐ (BY U.S. MAIL) I am personally and readily familiar with the business practice of Cooley Godward llp for collection and processing of correspondence for mailing with the United States Postal Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at Palo Alto, California.

☐ (BY MESSENGER SERVICE) by consigning the document(s) to an authorized courier and/or process server for hand delivery on this date. See attached Proof of Personal Service.

☐ (BY FACSIMILE) I am personally and readily familiar with the business practice

1 of Cooley Godward llp for collection and processing of document(s) to be
2 transmitted by facsimile and I caused such document(s) on this date to be
3 transmitted by facsimile to the offices of addressee(s) at the numbers listed below.

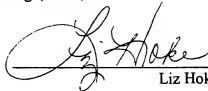
4 ☒ (BY OVERNIGHT MAIL) I am personally and readily familiar with the business
5 practice of Cooley Godward llp for collection and processing of correspondence for
6 overnight delivery, and I caused such document(s) described herein to be deposited
7 for delivery to a facility regularly maintained by Federal Express for overnight
8 delivery.

9 on the following part(ies) in this action:

10 Thomas W. Banks Esq.
11 Finnegan, Henderson, Farabow, et al.
12 700 Hansen Way
13 Palo Alto, CA 94304
14 Tel: (650) 849-6600
15 Fax: (650) 849-6666
16 **Attorneys for Vysis, Inc.**
17 **VIA FACSIMILE AND MAIL**

18 Executed on April 30, 2001, at San Diego, California.

19
20
21
22
23
24
25
26
27
28



Liz Hoke

PROOF OF PERSONAL SERVICE

I hereby declare:

I am employed in the City of San Diego, County of San Diego, California; I am over the age of eighteen years and not a party to the within cause; my business address is Knox Attorney Service, 2250 Fourth Avenue, San Diego, California 92103.

On April 30, 2001, I served the within document(s):

1. NOTICE OF MOTION AND MOTION OF GEN-PROBE INCORPORATED FOR PARTIAL SUMMARY JUDGMENT;
2. MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF GEN-PROBE INCORPORATED'S MOTION FOR PARTIAL SUMMARY JUDGMENT;
3. SEPARATE STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF PLAINTIFF GEN-PROBE INCORPORATED'S MOTION FOR PARTIAL SUMMARY JUDGMENT;
4. DECLARATION OF R. WILLIAM BOWEN IN SUPPORT OF GEN-PROBE'S MOTION FOR PARTIAL SUMMARY JUDGMENT
5. DECLARATION OF DR. JOSEPH D. FALKINHAM IN SUPPORT OF GEN-PROBE'S MOTION FOR PARTIAL SUMMARY JUDGMENT
6. DECLARATION OF DR. MATTHEW LONGIARU IN SUPPORT OF GEN-PROBE'S MOTION FOR PARTIAL SUMMARY JUDGMENT
7. STIPULATION AND [PROPOSED] ORDER ALLOWING GEN-PROBE INCORPORATED TO FILE UNDER SEAL CERTAIN DOCUMENTS UPON WHICH IT RELIES TO SUPPORT ITS MOTION FOR PARTIAL SUMMARY JUDGMENT
8. NOTICE OF LODGMENT IN SUPPORT OF PLAINTIFF GEN-PROBE INCORPORATED'S MOTION FOR PARTIAL SUMMARY JUDGMENT

on the interested parties in this action by personally hand delivering a copy of said document(s) to the address(es) listed below:

John H. L'Estrange, Jr. Esq.
Wright and L'Estrange
701 B Street, Suite 1550
San Diego, CA 92101
Tel: (619) 231-4844
Fax: (619) 231-6710
Attorneys for Vysis, Inc.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 30, 2001.

SIGNATURE: _____

PRINT NAME: _____